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EEOC v. Hugh O'Kane

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EEOC v. Hugh O'Kane

Keywords

EEOC, Ervin Riddick, Hugh O'Kane Electric, 8:02-cv-02503-BEL, consent decree, disparate treatment, retaliation, termination, race, national origin, employment law, title VII, service

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND
FOR THE
DISTRICT OF MARYLAND
2003 AUG -8 1 3 14

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

and

ERVIN RIDDICK,

Plaintiff-Intervenor,

v.

HUGH O'KANE ELECTRIC CO., LLC

Defendant.

CLERK'S OFFICE
AT BALTIMORE
BY _____) DEPUTY

Case No. L-02-CV-2503

CONSENT DECREE

This action was instituted on July 30, 2002, by Plaintiff, the Equal Employment Opportunity Commission ("Commission" or "EEOC"), against Defendant, Hugh O'Kane Electric Co., LLC ("Defendant" or "HOK"), pursuant to Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), and Title I of the Civil Rights Act of 1991. The Complaint alleges that Defendant discriminated against Daniel Aboyewa, Olasehinde Adebayo, Nurdeen Adesegun, Pius Alemnjia, Gabriel Aletanu, Ricardo Ali, Zachary Duncan, Jacob Efande, Alaine Enyime, Sayed Faiqe, Aponique Fangou, Frances Folefac, Ligali Gazal, Pierre Hogbe, Jacob Kake, Olutayo Olugbade, Ervin Riddick, Savivien Siewe, Salih Suliman, Clement Tatcho, and a class of similarly situated individuals by engaging in the unlawful employment practices of subjecting them to race and

national origin harassment, including but not limited to creating and maintaining a hostile work environment, retaliation, and discharge on the basis race and national origin, in violation of Title VII, Sections 703 and 704. On or about November , 2002, Plaintiff Ervin Riddick intervened in this lawsuit alleging violations of Title VII and the Civil Rights Act of 1866, 42 U.S.C. Section 1981.

The Parties desire to resolve this action and all issues raised by the Complaint without the time and expense of further contested litigation. The parties also desire to formulate a plan to be embodied in this Decree that will promote and effectuate the purposes of Title VII.

For the purposes of resolving this action, Defendant admits that the Court has jurisdiction over this action and the parties, venue is proper, and that all statutory and jurisdictional prerequisites to suit have been satisfied

The Court has examined this Decree and finds that it is reasonable and just and in accordance with the Federal Rules of Civil Procedure and Title VII. Therefore, upon due consideration of the record herein and being fully advised of the premises, it is ORDERED, ADJUDGED AND DECREED:

1. This Decree constitutes a full discharge and satisfaction of any and all claims which have been alleged in the Complaint filed by the EEOC in this Title VII action based on the EEOC's determinations of discrimination for the charges filed by Daniel Aboyewa, Olasehinde Adebayo, Nurdeen Adesegun, Pius Alemnjia, Gabriel Aletanu, Ricardo Ali, Zachary Duncan, Jacob Efande, Alaine Enyime, Sayed Faiqe, Aponique Fangou, Frances Folefac, Ligali Gazal, Pierre Hogbe, Jacob Kake, Olutayo Olugbade, Ervin Riddick, Savivien Siewe, Salih Suliman, and Clement Tatoh, including the class of all similarly situated individuals

INJUNCTION AGAINST DISCRIMINATION

2. Defendant, its officers, agents, assigns and all persons acting or claiming to act on its behalf and interest are hereby enjoined and restrained in the state of Maryland, Virginia and the District of Columbia (the "Designated Region") from violating Title VII by engaging in any employment practice that discriminates against any person because of race and/or national origin by subjecting them to race and national origin harassment and creating and maintaining a hostile work environment, or by discharging an employee on the basis of race and national origin and shall take the actions set forth in this Consent Decree to maintain a workplace free from race and national origin discrimination.

3. Defendant, its officers, agents, assigns, and all persons acting or claiming to act on its behalf and interest are hereby enjoined and restrained in the Designated Region from discriminating or retaliating against any person because of opposition to any practice declared unlawful under Title VII of the Civil Rights Act of 1964, as amended, or because of the filing of a charge against Defendant alleging any such practice, giving testimony or assistance, or participation in any manner in any investigation, proceeding or hearing under Title VII, including any person who participated in any manner in this action.

RACE AND NATIONAL ORIGIN HARASSMENT POLICY

4. Within thirty (30) days of the entry of this Decree, Defendant shall institute, implement and distribute to all its managers and employees in the Designated Region a revised written policy on race and national origin harassment. The revised policy shall include at a minimum, a clear explanation of

prohibited conduct, designation of a contact person to whom the prohibited conduct should be reported, with the contact person's name, title and phone number, a complaint procedure that provides accessible avenues of complaint, assurance that the employer will take all reasonable measures to protect confidentiality, conduct an impartial investigation, refrain from retaliating against any person who participates in such investigation, and take prompt and appropriate corrective action. The revised policy is to be reviewed by the Commission. Within twenty one (21) days of the entry of the Decree, Defendant shall forward to the Commission its proposed revised policy for review. Within ten (10) days of the Commission's review of this revised policy on race and national origin harassment, Defendant shall distribute a copy of this policy to all its managers and employees in the Designated Region. Within twenty one (21) days of the institution of this revised policy, Defendant shall forward to the Commission's attorney of record, at the EEOC's Baltimore District Office, written certification that this policy on race and national origin harassment referenced herein has been distributed to all of its managers and employees in the Designated Region and posted in the designated places.

POSTING OF POLICY AND NOTICE

5. Upon entry of this Decree, Defendant will post immediately in the Designated Region in a conspicuous place in and about its facilities, including all places where notices to employees are customarily posted, and maintain for the term of the Consent Decree, copies of the EEOC poster, "Equal Employment Opportunity Is The Law (Form EEOC-P/E-1), a copy of the revised race and national origin harassment policy referred to in paragraph 4 above, and the Notice attached hereto as Exhibit "A" and made a part hereof which shall be signed by a responsible official of Defendant with the date of actual posting to be shown thereon. Should these postings or notices become defaced,

marred or otherwise made unreadable, Defendant will ensure that new readable copies are posted in the same manner heretofore specified.

6. The revised race and national origin harassment policy and notices shall be posted and maintained throughout the period of this Decree. Exhibit "A" shall also be distributed to each employee of Defendant within the designated region. Within forty five (45) days of entry of this Decree, Defendant shall forward to the Commission's attorney of record, at the EEOC's Baltimore District Office, a copy of the signed Notice attached hereto as Exhibit "A," written certification that the race and national origin harassment policy and the notice referenced herein have been posted, a statement of the location(s) and date(s) of postings and that the signed Notice, attached hereto as Exhibit "A," has been distributed.

TRAINING

7. Within sixty (60) days of the entry of this Decree, Defendant will present training to its entire management and employee workforce within the Designated Region concerning race and national origin harassment, race and national origin discrimination, and other laws enforced by the Commission. All persons responsible for the implementation and administration of the revised race and national origin harassment policy referred to in paragraph 4 above, shall also be required to attend the training. The trainer's credentials and an outline of program materials shall be forwarded to the EEOC's attorney of record (30) thirty days prior to such training being conducted and the Commission shall provide any suggestion within ten (10) days of the training. A representative of the Commission shall be invited to attend such training. The training shall include an explanation of Title VII and its prohibitions against race and national origin harassment,

the responsibilities of human resources and managerial personnel who are informed or otherwise know of incidents of harassment, recognition of harassment, and the prohibition against retaliating against employees who allege an incident of discrimination, race or national origin harassment or intimidation. The training shall also address the methods for reporting an incident of race and national origin harassment. The training shall explain to all employees that, in addition to reporting an incident to management, they have a right to file a charge of discrimination with the Commission and shall explain where such charges can be filed and the applicable time frame for doing so. In addition, the training shall inform all employees that the employer will take all reasonable measures to protect confidentiality, that an impartial investigation will be conducted in response to a complaint and if the investigation finds that an employee has engaged in conduct that violates the employer's anti-harassment policy: (i) penalties will depend on the nature of the offense, (ii) any and all breaches of the policy are considered serious, and (iii) appropriate discipline will be imposed even for a first offense, ranging from a verbal warning up to and including discharge.

8. Defendant also agrees to provide, within ten (10) days of hire, to each newly-hired employee in the Designated Region, including all managerial employees and all employees responsible for the administration of Defendant's race and national origin harassment policy an orientation to its race and national origin harassment and equal employment opportunity policies.

9. After entry of the Decree, Defendant shall forward to the Commission's attorney of record, at the EEOC's Baltimore District Office a list of all employees who have attended and completed training within ten (10) days of completion of such training. For the duration of this Consent Decree, Defendant shall keep a record of all employees within the Designated Region

who receive the training described herein. Defendant will report to the Commission's attorney of record those employees who have received the training during the appropriate reporting period.

INDIVIDUAL RELIEF

10. Defendant has agreed to pay total damages in the amount of one million one hundred thousand dollars (\$1,100,000) in full settlement of this case and the related case of Nestor, et al. v. Hugh O'Kane Electric Co., LLC, C.A. No. L-02-CV-1786 ("Nestor v. HOK") consolidated with this case for discovery. Within five (5) days of the execution of this Decree by the Parties, Defendant shall pay monetary damages in full settlement of this case in accordance with the provisions set forth below:

- a. Defendant will pay to Sayed Faïq compensatory damages in the amount of seventy thousand dollars (\$70,000)
- b. Defendant will pay to Francis Folefac compensatory damages in the amount of seventy thousand dollars (\$70,000)
- c. Defendant will pay to Salih Suliman compensatory damages in the amount of seventy thousand dollars (\$70,000).
- d. Defendant will pay to Daniel Aboyewa compensatory damages in the amount of forty thousand dollars (\$40,000).
- e. Defendant will pay to Jacob Efande compensatory damages in the amount of forty thousand dollars (\$40,000).
- f. Defendant will pay to Ligali Gazal compensatory damages in the amount of forty thousand dollars (\$40,000).

g. Defendant will pay to Adebayo Olasehinde compensatory damages in the amount of forty thousand dollars (\$40,000).

h. Defendant will pay to Aponique Fangou compensatory damages in the amount of thirty nine thousand seven hundred and twenty two dollars (\$39,722).

Defendant will pay to Nurudeen Adesegun compensatory damages in the amount of thirty thousand dollars (\$30,000).

j. Defendant will pay to Gabriel Aletanu, compensatory damages in the amount of thirty thousand dollars (\$30,000).

k. Defendant will pay to Ricardo Ali compensatory damages in the amount of thirty thousand dollars (\$30,000).

Defendant will pay to Zachary Duncan compensatory damages in the amount of thirty thousand dollars (\$30,000).

m. Defendant will pay to Alain Enyime compensatory damages in the amount of thirty thousand dollars (\$30,000).

n. Defendant will pay to Pius Alemnjia Forka compensatory damages in the amount of thirty thousand dollars (\$30,000).

o. Defendant will pay to Jacob Kake compensatory damages in the amount of thirty thousand dollars (\$30,000).

p. Defendant will pay to Olutayo Olugbade compensatory damages in the amount of thirty thousand dollars (\$30,000).

q. Defendant will pay to Savinien Siewe compensatory damages in the amount of thirty thousand dollars (\$30,000).

r. Defendant will pay to Clement Tatch compensatory damages in the amount of thirty thousand dollars (\$30,000).

s. Defendant will pay to Ervin Riddick, in conjunction with settlement of his claims as Intervenor in this case and under the terms of the agreement with Intervenor, compensatory damages, including attorney's fees, in the amount of thirty nine thousand four hundred and twenty nine dollars (\$39,429).

t. Defendant will pay to Pierre Hogbe, monetary damages plus attorney's fees under the terms of the agreement in the case of Nestor, et al. v. Hugh O'Kane Electric Co., LLC, C.A. No. L-02-CV-1786. Additionally, the remainder of the monetary damages shall be paid under the terms of the agreement in the case of Nestor, et al. v. Hugh O'Kane Electric Co., LLC, C.A. No. L-02-CV-1786.

u. Defendant shall take no withholding from the monetary amounts listed above and will issue an IRS Form 1099 to each individual for the amount of payment made to each named individual;

v. Checks in these amounts made out to the individuals named in paragraphs a. through r. above, shall be hand delivered to the Commission's Baltimore District Office no later than one o'clock in the afternoon (1:00 p.m.) on August 6, 2003, to be distributed to said individuals by the Commission that same day.

11. Defendant shall remove any records or documents relating to the filing of charges of discrimination by Daniel Aboyewa, Olasehinde Adebayo, Nurdeen Adesegun, Pius Alemnjia, Gabriel Aletanu, Ricardo Ali, Zachary Duncan, Jacob Efande, Alaine Enyime, Sayed Faiqe, Aponique Fangou, Frances Folefac, Ligali Gazal, Pierre Hogbe, Jacob Kake, Olutayo Olugbade,

Ervin Riddick, Savivien Siewe, Salih Suliman, and Clement Tatch, or the Commission's lawsuit against Defendant, from the personnel files of Daniel Aboyewa, Olasehinde Adebayo, Nurdeen Adesegun, Pius Alemnjia, Gabriel Aletanu, Ricardo Ali, Zachary Duncan, Jacob Efande, Alain Enyime, Sayed Faiqe, Aponique Fangou, Frances Folefac, Ligali Gazal, Pierre Hogbe, Jacob Kake, Olutayo Olugbade, Ervin Riddick, Savivien Siewe, Salih Suliman, and Clement Tatch, wherever maintained. Reference requests regarding these individuals shall be answered by Defendant in neutral terms limited to position, rate of pay, and dates of employment.

BREACH PROVISION

12. If either party to this Decree believes that the other party has breached a material provision of this Decree, it shall so notify the party, in writing, of the alleged breach. Upon receipt of written notice, a party shall have fifteen (15) days to either correct the alleged breach, and so inform the other party, or deny the alleged breach, in writing;

- a. If the parties remain in dispute they shall attempt in good faith to resolve their dispute; b. If the parties can not in good faith resolve their dispute, the party alleging a breach may file with the Court a motion to correct and remedy the breach;
- c. Each party shall bear its own costs, expenses and attorney's fees incurred in connection with such action; and
- d. Jurisdiction and venue to resolve any dispute arising under this Decree resides in the United States District Court for the District of Maryland.

TERM OF CONSENT DECREE

13. This Decree shall remain in full force and effect for a period of two (2) years from the date of approval and entry of this Decree by the Court.

14. The Court shall retain jurisdiction of this action to ensure compliance with this Decree. In all other respects, upon approval and entry by the Court of this Decree, this action is dismissed with prejudice and the Clerk of the Court is directed to remove this action from the Court's calendar.

MISCELLANEOUS

15. The Commission reserves the right to monitor compliance with the provisions of this Decree. As part of such review, the EEOC may require written reports concerning compliance, inspect Defendant's premises, interview witnesses, and examine and copy documents within the Designated Region.

16. The Commission and Defendant shall bear their own costs, expenses and attorneys' fees incurred in connection with this action.

17. The undersigned counsel of record, on behalf of their respective clients, and Defendant representative hereby consent to the entry of the foregoing Consent Decree.

BY CONSENT:

FOR DEFENDANT:

HUGH O'KANE ELECTRIC CO.
INC.

I HEREBY CERTIFY THAT I AM
AUTHORIZED TO BIND THE ABOVE
ENTITY TO THE TERMS OF THIS
CONSENT DECREE BY MY SIGNATURE
AND BY MY SIGNATURE DO SO.



Name **NOAH FRANZBLAU**

Title **SECRETARY**

Address **3 NY PLAZA, 12TH FL NY, NY 10004**

Phone No. **(212) 981-0700**

FOR PLAINTIFF:

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

GWENDOLYN YOUNG REAMS
Associate General Counsel



GERALD S. KIEL

Regional Attorney

FOR INTERVENOR:

TRACY HUDSON SPICER
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CECILE C. QUINLAN

Senior Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

10 So. Howard Street, 3rd Fl.

Baltimore Maryland 21201

(410) 962-4239

SO ORDERED this

7th

Day of

August

2003.



THE HONORABLE BENSON E. LEGG

United States District Judge

EXHIBIT "A"

NOTICE TO EMPLOYEES **POSTED PURSUANT TO A CONSENT DECREE BETWEEN** **THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,** **AND HUGH O'KANE ELECTRIC CO., LLC**

Under Section 703(a) of Title VII of the Civil Rights Act of 1964, it is unlawful for an employer "to discharge any individual, or otherwise discriminate against any individual with respect to his ... terms, conditions, or privileges of employment because of such individual's race... or national origin."

Harassment on the basis of race or national origin violates Title VII. Ethnic slurs, epithets, racial "jokes," offensive or derogatory comments, or other verbal or physical conduct based on an individual's race/color or national origin constitutes unlawful harassment when the conduct creates an intimidating, hostile, or offensive working environment, interferes with the individual's work performance or when an employment decision is based on an employee's acceptance or rejection of such conduct.

Under Section 704(a) of Title VII, "it shall be an unlawful employment practice for an employer to discriminate against any of his employees ... because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter."

WE WILL NOT engage in any acts or practices made unlawful by the above sections.

WE WILL NOT engage in any harassment of employees based on race or national origin

WE WILL NOT discharge any employee or force an employee to

resign based on race or national origin

WE WILL NOT retaliate against employees for complaining about harassment, or discharge, or forced resignation based on race and/or national origin.

WE WILL enforce our policy on race and national origin harassment.

By:

HUGH O’KANE ELECTRIC CO., LLC
(Employer)

Dated:

Date Posting Expires: